



CITY OF DECATUR, TEXAS

Development Services ★ 1601 S. State Street ★ Decatur, TX 76234 ★ (940) 393-0250 voice ★ (940) 626-4629 fax

AGENDA

(Zoning) Board of Adjustment Meeting

Monday, July 16, 2018, at 3:30 P.M.

City Hall Council Chamber

201 E. Walnut

Decatur Texas 76234

Call to Order

- ITEM 1:** Administer Statement of Appointed Official and Oath of Office to Murvelle Chandler as Regular ZBA Members.
- ITEM 2:** Administer Statement of Appointed Official and Oath of Office to Kristy Campbell as an Alternate ZBA Member.
- ITEM 3:** Elect a Vice-Chairman.
- ITEM 4:** Approval of June 18, 2018, Minutes.
- ITEM 5:** **ZBA2018-10**—The Board to consider and take action on Mr. John Pimentel's request, on behalf of QuikTrip Corporation, for a Variance from the City of Decatur's Zoning Ordinance regarding rear yard setback. Specifically, applicant is requesting a variance to the City of Decatur Code of Ordinances, Appendix B. "Zoning," Article 5. "Zoning Districts," Section 5.1 "Zoning Districts Established," Subsection 5.1.11 "C-2, Thoroughfare Business Zoning District," Item D "Area Regulations," (1) "Size of Yard," (d) "Minimum Rear Yard," to reduce the required rear yard setback from ten feet (10') to zero feet (0'), a reduction of ten feet (10'), along the southern property line. The subject property is platted as Lot 1, Block 1, QT 1853 Addition and is more commonly referred to as 701 W. Hale St., City of Decatur, Wise County, Texas.
- ITEM 6:** **ZBA2018-11**—The Board to consider and take action on Mr. John Pimentel's request, on behalf of QuikTrip Corporation, for a Variance from the City of Decatur's Zoning Ordinance regarding front yard setback. Specifically, applicant is requesting a variance to the City of Decatur Code of Ordinances, Appendix B. "Zoning," Article 5. "Zoning Districts," Section 5.1 "Zoning Districts Established," Subsection 5.1.11 "C-2, Thoroughfare Business Zoning District," Item D "Area Regulations," (1) "Size of Yards," (a) "Minimum Front Yard," to reduce the required front yard setback from twenty-five feet (25') to seven feet (7'), a reduction of eighteen feet (18') along west Hale Street. The subject property is platted as Lot 1, Block 1, QT 1853 Addition and is more commonly referred to as 701 W. Hale St., City of Decatur, Wise County, Texas.
- ITEM 7:** New and/or future business items.

Adjournment

Prepared and posted this 13th day of July 2018, in accordance with Chapter 551, Texas Government Code.

Dedra D. Ragland, AICP
Director of Planning and Development

*NOTE: THE (ZONING) BOARD OF ADJUSTMENT RESERVES THE RIGHT TO ADJOURN INTO A CLOSED MEETING AT ANY TIME REGARDING ANY ITEM ON THE AGENDA FOR WHICH IT IS LEGALLY PERMISSIBLE **UNDER THE TEXAS OPEN MEETINGS ACT PURSUANT TO LGC 551.071.**

City of Decatur
Decatur, TX

The State of Texas

OATH OF OFFICE

I, Murvelle Chandler; do solemnly swear (or affirm), that I will faithfully execute the duties of the office of Board of Adjustment for the City of Decatur, Texas, and will to the best of my ability preserve, protect, and defend the Constitution and laws of the United States and of this State, so help me God.

**Murvelle Chandler
ZBA Regular Board Member**

SWORN TO and subscribed before me by affiant on this 16th day of July, 2018.

Cheryl Fuss, Notary Public

(seal)

STATEMENT OF APPOINTED/ELECTED OFFICER

(Pursuant to Tex. Const. art.XVI, §1(b), amended 2001)

I, Murvelle Chandler, do solemnly swear (or affirm), that I have not directly or indirectly paid, offered, promised to pay, contributed, or promised to contribute any money or thing of value, or promised any public office or employment for the giving or withholding of a vote at the election (appointment) at which I was elected or as a reward to secure my appointment or confirmation, whichever the case may be, so help me God.

UNDER PENALTIES OF PERJURY, I DECLARE THAT I HAVE READ THE FOREGOING STATEMENT AND THAT THE FACTS STATED THEREIN ARE TRUE.

July 16, 2018

Murvelle Chandler

ZBA Regular Board Member

Position to Which Elected/Appointed City of Decatur

City of Decatur
Decatur, TX

The State of Texas

OATH OF OFFICE

I, Kristy Campbell; do solemnly swear (or affirm), that I will faithfully execute the duties of the office of Board of Adjustment for the City of Decatur, Texas, and will to the best of my ability preserve, protect, and defend the Constitution and laws of the United States and of this State, so help me God.

**Kristy Campbell
ZBA Alternate Board Member**

SWORN TO and subscribed before me by affiant on this 16th day of July, 2018.

Cheryl Fuss, Notary Public

(seal)

STATEMENT OF APPOINTED/ELECTED OFFICER

(Pursuant to Tex. Const. art.XVI, §1(b), amended 2001)

I, Kristy Campbell, do solemnly swear (or affirm), that I have not directly or indirectly paid, offered, promised to pay, contributed, or promised to contribute any money or thing of value, or promised any public office or employment for the giving or withholding of a vote at the election (appointment) at which I was elected or as a reward to secure my appointment or confirmation, whichever the case may be, so help me God.

UNDER PENALTIES OF PERJURY, I DECLARE THAT I HAVE READ THE FOREGOING STATEMENT AND THAT THE FACTS STATED THEREIN ARE TRUE.

July 16, 2018

Murvelle Chandler

ZBA Alternate Board Member

Position to Which Elected/Appointed City of Decatur

**MINUTES
(ZONING) BOARD OF ADJUSTMENT MEETING
Monday, June 18, 2018 at 3:30 P.M.
City Hall Council Chambers
201 E. Walnut**

A meeting of the City of Decatur (Zoning) Board of Adjustment was held at 3:30 p.m. on June 18, 2018, at City Hall with the following in attendance:

MEMBERS PRESENT:

Mark Duncum, Chairman
Will Klose, Vice-Chairman
Dennis McCreary
Wayne Stone
Lisa Caraway

MEMBERS ABSENT:

Murvelle Chandler, Alternate

Others present were: Planning Director Dedra Ragland, Legal Counsel Patricia Adams, Development Review Coordinator Cheryl Fuss, and Building Official Wayne Smith, representing the staff; and Marsha Nieman, representing the applicants; and Barbara Pinkerton and Patricia Gross, Decatur citizens.

Call to Order: Chairman Duncum called the meeting to order at 4:08 p.m.

ITEM 1: Administer Statement of Appointed Official and Oath of Office to Murvelle Chandler (absent), Dennis McCreary and Wayne Stone as Regular ZBA Members.

Development Review Coordinator Fuss administered Statement of Appointed Official and Oath of Office to Board Members McCreary and Stone. Board Member Chandler was postponed until the next meeting as she was out ill and was not present.

ITEM 3: Administer Statement of Appointed Official and Oath of Office to Kristy Campbell as an Alternate ZBA Member.

Postponed until the next meeting as Kristy Campbell had a previous engagement and was not present.

ITEM 4: Approval of April 16, 2018, Minutes.

Vice-Chairman Klose made a motion to approve the April 16, 2018 Minutes. Board Member Caraway seconded the motion. The motion passed 4-0.

ITEM 5: ZBA2018-06—The Board to consider and take action on Mrs. Mitzi Sullivan’s request for a Special Exception from the City of Decatur’s Zoning Ordinance regarding front yard setback. Specifically, applicant is requesting a variance to the City of Decatur Code of Ordinances, Appendix B. “Zoning,” Article 5. “Zoning Districts,” Section 5.1 “Zoning Districts Established,” Subsection 5.1.9 “C-1, Restricted Business District,” Item D “Area Regulations,” (1) “Size of Yard,” (a) “Minimum Front Yard,” to reduce the required front yard setback from twenty-five feet (25’) to seven feet (7’), a reduction of eighteen feet (18’), along west Walnut Street. The subject property is platted as Lot 1, Block 157R, Tarleton Addition and is more commonly referred to as 506 W. Walnut St., City of Decatur, Wise County, Texas.

Planning Director Ragland presented the staff findings. Twenty-nine (29) property owners were notified. Staff received no responses to the request.

Planning Director Ragland explained to the Board that in December 2017, Mrs. Sullivan submitted an application for a sign reface. The application was denied due to a failure to provide adequate documentation of a pre-existing sign was abandoned and therefore, would not qualify as a reface. In order for the sign to qualify as a reface, the Applicant needed to provide proof of the previous sign. In looking at Google Earth, the frame had been there for two years. The sign face in the abandoned frame lost its legality since there had been no sign in it for over 6 months. The Applicant could not provide proof that there had been a sign inside the frame in recent months. Since the documentation could not be provided, owner needed to submit

for a new sign permit. Application needed a site plan reflecting front yard setback, easements, and sign location relative to the setback and easements. In April 2018, Mrs. Sullivan submitted an application for the new sign. Upon review of the site plan, it was discovered that the new sign encroached in the front yard setback. The current residential structure is setback twenty-seven feet (27') from the property line. Planning Director Ragland explained that based on the criteria to approve a variance, staff analysis is as follows:

1. The requested variance does violate the intent and spirit of the ordinance. There is enough room for the sign to be located out of the required 25' front yard setback, if oriented parallel to the building. Applicant argued that the business needs the signage visibility. A CPA is considered a profession that is not an "impulse profession" and is usually established and built up via word of mouth. The sign could be reoriented to be behind the 25-foot front setback and the sign could be placed parallel to the front of the building.
2. There are no physical features unique to this property.
3. The hardship is a result of the Applicant's action due to the sign being put up without a permit. Applicant was cautioned about what the issues would be in regards to the setback.
4. The interpretation of the ordinance does not deprive the Applicant of rights commonly enjoyed by other properties in the same zoning district.

Board Member Caraway asked if the Board should be influenced by what the Applicant did wrong. Planning Director Ragland explained that it was part of the background. Board Member Caraway stated that it is part of the background but their decision is not based on what the Applicant did wrong. Planning Director Ragland said that their decision should be based on the criteria for granting variances identified in the Zoning Regulations. Board Member Caraway said that she disagreed with Planning Director Ragland's statement regarding a CPA being considered a profession that is not an "impulse profession." Someone can drive by during tax season or estate planning and see the sign and pull in there. This has happened to her. Board Member Caraway asked for clarification on the length of time a sign frame can be left in place before it isn't a sign anymore. Planning Director Ragland responded it is six (6) months and not two (2) years.

Chairman Duncum asked if there ever was a sign in the frame? Planning Director Ragland said there was no way of knowing if prior to 2005; however, from Google Earth, there has not been a sign in the frame since 2012.

The Board asked how long Mrs. Sullivan's sign had been up. Building Official Smith said about two (2) months.

Chairman Duncum asked if the City of Decatur is looking at amending the sign ordinance. Planning Director said that it has been discussed; however, it is not currently underway. Chairman Duncum asked if the changes to the Sign Ordinance will allow Mrs. Sullivan's sign. Legal Counsel Adams said that any sign amendments will not impact the front yard setback requirement. Planning Director Ragland said that in Decatur, all the Zoning Districts have a 25' front yard setback. Board Member Caraway said that she had seen commercial signs located in the front yard setback. Chairman Duncum asked if this requirement changed. Planning Director Ragland said that Board Members may see signs in the front yard setback. The signs may have been put up without a permit as that happens more often than not; previous staff might not have enforced the requirements. The 25' front yard setback requirement has been in place since the Zoning Ordinance was first adopted in 1976. She also stated that since 2005 and forward, the regulations have been enforced. Prior to that, she didn't know what the circumstances were. Vice-Chairman Klose agreed with Board Member Caraway that advertising is advertising and that it's the ordinance now and he didn't know what could be done for the applicant now. Planning Director Ragland said that they could grant the setback variance; however, she cautioned them that the last time there was a difference between the Board's decision and Staff's recommendations, the City Attorney sent the Zoning Board of Adjustment a very detailed memo stating they would need to provide very specific details as to why they were going against staff's recommendations.

Board Member Caraway was concerned about having to follow staff's recommendation, if the Board disagreed with it. Planning Director Ragland informed Board they could approve request; however, they need to give very specific reasons as to why they were going against staff's recommendation. Legal Counsel

Adams stated to hold a violation against someone was not the objective of Board in deciding whether or not to grant variance. The point is that when looking at the criteria, the Board has to determine if hardship is self-induced or self-imposed. So, if action taken violated the ordinance and applicant knew that it was in violation of the ordinance and now a hardship has been created, it is self-imposed. So the criteria is listed out in the staff report and those are the four criteria that the Board should be looking at and applying. Staff has made one recommendation here and that does not mean that the Board can't disagree, but those are the criteria:

First criteria, where you disagreed with the statement about sign not being required. You can disagree with that finding. What the City is looking for you to do is go through the criteria and give an opinion on whether you think it meets or doesn't meet. And then you all make a decision on whether the variance should be granted based on the four criteria.

Chairman Duncum asked if the applicant was attending the meeting; they were not.

The Board asked about a previous sign variance that had been approved by the Board, the IHOP sign. Planning Director Ragland said that the original sign permit had been found and the City Manager administratively approved Variance when the restaurant was first constructed in the 80s. At that time, there was no formal ZBA.

Chairman Duncum asked if the City was being proactive by going out and looking for sign violators. Planning Director Ragland said that no, she does not have the manpower for that.

Board Member Caraway asked the Board if they all thought that the 25' front yard setback was unrealistic for a business since it was adopted in the 70's. Chairman Duncum said that a 25' setback is too far back for a sign, but it is the rule. There was additional debate on the location of signs. Planning Director Ragland reminded the Board that it is not the Sign Ordinance at issue; it is the zoning setback, the 25' front yard setback, and the sign regulations.

Chairman Duncum asked if the Board was willing to grant a variance for the front yard setback. If so, they would be disagreeing with Staff and did they have specific reasons for doing that.

Legal Counsel Adams brought up the four (4) criteria again and explained to the Board that it's in state law. And if they are making a decision that differs from what Staff is recommending, the Board has to put on record, their basis for explaining why they think request does or does not meet the criteria.

Board Member Caraway asked what is the difference between a "reface" and the frame that the sign is in, and does that relate to the Sign Ordinance? Planning Director Ragland said, yes. Board Member Caraway gave an example of a sign being in the frame and asked if there was another sign going into the frame the same size, why did the City care if the base is already there. Planning Director Ragland explained again that by definition that is an abandoned sign frame. The face will need to be included to make it a "sign." The sign face cannot stand by itself, it needs the frame. The frame in this case is more of a decorative feature without the sign inside of it. Board Member Caraway stated that six (6) months can go by pretty quickly. If someone is buying a new property and renovating it, and they aren't necessarily going to put up a new sign until all that work is completed.

Chairman Duncum said that the four (4) criteria are:

1. Does the requested variance violate the intent and spirit of the ordinance – Yes it does, but it also doesn't. A 25' setback for a commercial property is unrealistic.
2. Are there special considerations of physical features that are peculiar to the subject parcel that are not applicable to other parcels of land in the same zoning district – Yes there are. It is a commercial property now. The structure is residential and is really not suited for wall signs.
3. Is the hardship a result of the applicant's action – Board Member Caraway doesn't consider it a hardship due to the applicant's actions. Applicant didn't put the posts in the ground; applicant placed a sign inside the frame; applicant didn't dig the holes to put posts in the ground.
4. Chairman Duncum asked the Board if Board is depriving the applicant of the same rights that others are enjoying. Vice-Chairman Klose stated that was his question also. He believes Board

is depriving the business advertising. Planning Director Ragland said that you could look at it that way or you could look at it more globally. If the rule is for the sign to not be in the setback, and there are other signs that are; however, Board doesn't know the circumstances as to why the signs are located in the front yard setback. Applicant does have other options. It would be different if she didn't, such as a building that cannot be moved. This is a sign and it can be moved or a wall sign can be installed. So, applicant is not technically being deprived of the ability to advertise for her business.

Planning Director Ragland stated that the way the state law reads all four (4) criteria must be met.

Vice-Chairman Klose said that he knew of another sign on the same street. Planning Director Ragland said that she knew of that sign, too.

Board Member Caraway said that she wanted to encourage people to do business going up to the Square and she doesn't want to make it hard on businesses, but if that is the way the ordinance is written, she doesn't see how the Board has a choice. Board Member Caraway went on further to state she doesn't see why Board keeps granting variances for something that is wrong. If a variance has been granted on something three (3) times, the Ordinance needs to be reviewed. It doesn't bode well for the City of Decatur if some folks are allowed to put a sign in the setbacks when others are not permitted.

Chairman Duncum stated if the Board were to disagree with the fourth criteria, then what Board is essentially saying is that the front yard building setback line is being moved to seven feet (7'). This should be for the sign only and not the building.

Planning Director Ragland said that it would be for all since a sign is considered a structure; however, Board might be able to amend the request. Vice-Chairman Klose said that somebody could build up to the seven feet (7') building line if request is approved as is. Planning Director Ragland asked Legal Counsel Adams if Board can put a condition on the variance. Legal Counsel Adams said that the Variance request is for the setback to be reduced. Basically, if Board is only wanting to allow a sign structure to go into the setback, that condition can be placed to not alter the building setback but to permit sign to encroach in the 25' setback.

Board Member Caraway said that it is really a no brainer then. The sign is already there and it doesn't hurt anybody. It's a variance.

Vice-Chairman Klose said that going back to Chairman Duncum question if we disagree with the fourth criteria, is that the only specificity that we need?

Legal Counsel Adams said that no, they need to provide the same specificity for the other three criteria.

Board Member Caraway asked if there are any other issues with the sign other than it being in the setback such as size or verbiage. Planning Director Ragland said no.

Chairman Duncum asked the square feet of the sign. Planning Director Ragland said eight (8) square feet and that includes the frame.

Legal Counsel Adams offered the following explanations to assist the Board in their deliberation:

Criteria 1 - Legal Counsel Adams said that she is going to have a sign that is seven feet (7') off of the front property line which is adjacent to a roadway understanding that one of the reasons that the City has setback requirements is to keep things further back from traffic because of safety hazards and expansion. Does seven feet (7') in violate the requirement of the 25' front yard setback? That is the first criteria.

Criteria 2 - Are there any special features peculiar to this property? Sometimes a parcel will be built up. There really isn't a whole lot of room for a sign to go. Property may have some weird angles or shape to it. So there really is no other place to locate structure. That is what this exception really goes to. Is there something strange about this parcel that prevents the structure from being placed in compliance with the Ordinance? That is what the second criteria is about. Is there something that

is peculiar about the lot; the shape of it that makes it difficult to place the sign outside the 25' setback to be in compliance?

Criteria 3 – Is the hardship a result of the applicant's action? The fact that the frame was there, she didn't put it there, so that is not a result of her action. However, she then added the sign to it. If there is monetary loss because she has to move sign, then that is her own action because she decided she would put that up there before the variance was granted. So that would be something that is a result of her action.

Criteria 4 – Does it deprive the applicant of rights commonly enjoyed by properties in the same zoning district that comply with the same provisions? This goes again back to same scenario as it just isn't working, you have a peculiar piece of land. Maybe the neighbor's is shaped differently. There is just some difference there that affects this property, so it can never have the same rights.

Board's conclusion:

Criteria 1 – Board Member Caraway said there is no criteria or visibility issues for the sign.

Criteria 2 – Board Member Caraway stated having sign setback 25' to meet the front yard setback for a commercial property is detrimental to the business, if they plan on staying in business.

Criteria 3 – Board doesn't consider hardship to be due to applicant's actions. Applicant didn't put the posts in the ground. Just because a sign was placed inside the frame, applicant didn't dig the holes to put posts in the ground.

Criteria 4 – If Board doesn't allow sign closer to street, it is detrimental to applicant's business. The house is setback 27.6' and there is no area to place a wall sign.

Vice-Chairman Klose agreed saying that he didn't know where a wall sign can be placed either. If placed in front of the windows, sign would impact ingress and egress and aesthetics. It will look bad. The chimney looks awesome. If sign is placed on the fireplace, that's going to look terrible.

Vice-Chairman Klose didn't understand the difference between the Board granting a variance for a sign or another structure in the 25' front yard setback. The Board grants variances for houses, structures that can't be moved, which are more severe cases than signs; and there are a lot of houses in the city that are encroaching in the front yard setback. The Board doesn't require them to move their houses. Vice-Chairman Klose understands that there is a difference, signs are much easier to move. This sign is not located in a visibility triangle nor at an intersection of two streets. It is not causing any harm.

Chairman Duncum said that based on the summary of the four (4) criteria, all are applicable in this situation.

Chairman Duncum called for a motion.

Legal Counsel Adams said that the request was to move the entire setback. Board will need to revise motion to grant or deny a variance for the location of the sign structure within the front setback, i.e. to allow the sign to encroach in the front setback.

Board Member Caraway made a motion to allow for a special exception from the City of Decatur's Zoning Ordinance regarding front yard setbacks. Specifically, applicant is requesting a special exception to the City of Decatur Code of Ordinances, Appendix B. "Zoning," Article 5. "Zoning Districts," Section 5.1 "Zoning Districts Established," Subsection 5.1.9 "C-1, Restricted Business District," Item D "Area Regulations," (1) "Size of Yard," (a) "Minimum Front Yard," to reduce the required front yard setback from twenty-five feet (25') to seven feet (7'), a reduction of eighteen feet (18'), along west Walnut Street. However, the Board amended the request and placed the following condition: to allow a sign to be the only structure permitted to encroach seven feet (7') into the front yard setback. The subject property is platted as Lot 1, Block 157R, Tarleton Addition and is more commonly referred to as 506 W. Walnut St., City of Decatur, Wise County, Texas. Vice-Chairman Klose seconded the motion. The motion passed 5-0.

ITEM 6: **ZBA2018-07**—The Board to consider and take action on Mrs. Marsha Nieman’s request for a Special Exception from the City of Decatur’s Zoning Ordinance regarding front yard setback. Specifically, applicant is requesting a Special Exception to the City of Decatur Code of Ordinances, Appendix B. “Zoning,” Article 5. “Zoning Districts,” Section 5.1 “Zoning Districts Established,” Subsection 5.1.9 “C-1, Restricted Business District,” Item D “Area Regulations,” (1) “Size of Yards,” (a) “Minimum Front Yard,” to reduce the required front yard setback from twenty-five feet (25’) to seventeen feet (17’), a reduction of eight feet (8’) along south. Lane Street. The subject property is identified as Lot 9R, Block 15, Range F, Devereux Addition and is more commonly referred to as 105 S. Lane St., City of Decatur, Wise County, Texas.

Planning Director Ragland presented the staff findings. She told the Board that the next three (3) cases were on the same property. Staff met with Mrs. Nieman on April 12, 2018, to discuss a building permit application for a therapeutic pool. The survey that Mrs. Nieman provided revealed that the property is not properly platted; the lot includes part of Lot 8 and part of Lot 9, Block 15, Range F, of the Devereux Addition, the house encroaches on the required front yard setback and two accessory structures encroach on the side (northern property line) and rear yard setbacks. Also before a building permit can be issued, the property will need to be replatted. Before the property can be replatted, special exceptions will need to be granted for the front yard, side yard and rear yard setback encroachments. Twenty-four (24) property owners were notified. Staff has received four (4) responses in favor of the request. The structures cannot be moved. The house and one of the accessory structures have been in place since 1935. When the house was built, it was allowed to straddle two lots.

Chairman Duncum asked for discussion.

Board Member Stone made a motion to allow for a special exception from the City of Decatur’s Zoning Ordinance regarding front yard setbacks. Specifically, applicant is requesting a special exception to the City of Decatur Code of Ordinances, Appendix B. “Zoning,” Article 5. “Zoning Districts,” Section 5.1 “Zoning Districts Established,” Subsection 5.1.9 “C-1, Restricted Business District,” Item D “Area Regulations,” (1) “Size of Yards,” (a) “Minimum Front Yard,” to reduce the required front yard setback from twenty-five feet (25’) to seven feet (7.0’), a reduction of eight feet (8.0’) along S. Lane Street. The subject property is currently platted as part of Lots 8 and 9, Block 15, Range F, Devereux’s Addition; it is proposed to be replatted as Lot 9-R, Block 15, Range F, Devereux’s Addition and is more commonly referred to as 105 S. Lane Street, City of Decatur, Wise County, Texas. Board Member McCreary seconded the motion. The motion passed 5-0.

ITEM 7: **ZBA2018-08** The Board to consider and take action on Mrs. Marsha Nieman’s request for a Special Exception from the City of Decatur’s Zoning Ordinance regarding side yard setbacks. Specifically, applicant is requesting a Special Exception to the City of Decatur Code of Ordinances, Appendix B. “Zoning,” Article 5. “Zoning Districts,” Section 5.1 “Zoning Districts Established,” Subsection 5.1.9 “C-1, Restricted Business District,” Item D “Area Regulations,” (1) “Size of Yards,” (c) “Minimum Side Yard,” to reduce the required side yard setback from nine feet (9’) to two feet (2’), a reduction of seven feet (7’) along the northern property line. The subject property is identified as Lot 9R, Block 15, Range F, Devereux Addition and is more commonly referred to as 105 S. Lane St., City of Decatur, Wise County, Texas.

Planning Director Ragland stated the findings for this application are similar as ZBA2018-07.

Vice-Chairman Klose made a motion to allow for a special exception from the City of Decatur’s Zoning Ordinance regarding side yard setbacks. Specifically, applicant is requesting a special exception to the City of Decatur Code of Ordinances, Appendix B. “Zoning,” Article 5. “Zoning Districts,” Section 5.1 “Zoning Districts Established,” Subsection 5.1.9 “C-1, Restricted Business District,” Item D “Area Regulations,” (1) “Size of Yards,” (c) “Minimum Side Yard,” to reduce the required side yard setback

from nine feet (9') to two feet (2'), a reduction of seven feet (7') along the northern property line. The subject property is currently platted as part of Lots 8 and 9, Block 15, Range F, Devereux's Addition; it is proposed to be replatted as Lot 9-R, Block 15, Range F, Devereux's Addition and is more commonly referred to as 105 S. Lane Street, City of Decatur, Wise County, Texas. Board Member Caraway seconded the motion. The motion passed 5-0.

ITEM 8: **ZBA2018-09** The Board to consider and take action on Mrs. Marsha Nieman's request for a Special Exception from the City of Decatur's Zoning Ordinance regarding rear yard setbacks. Specifically, applicant is requesting a Special Exception to the City of Decatur Code of Ordinances, Appendix B. "Zoning," Article 5. "Zoning Districts," Section 5.1 "Zoning Districts Established," Subsection 5.1.9 "C-1, Restricted Business District," Item D "Area Regulations," (1) "Size of Yards," (d) "Minimum Rear Yard," to reduce the required rear yard setback from ten feet (10') to two feet (2'), a reduction of eight feet (8') along the rear property line. The subject property is identified as Lot 9R, Block 15, Range F, Devereux Addition and is more commonly referred to as 105 S. Lane St., City of Decatur, Wise County, Texas.

Planning Director Ragland stated same findings as ZBA2018-07.

Board Member Caraway made a motion to allow for a special exception from the City of Decatur's Zoning Ordinance regarding front yard setbacks. Specifically, applicant is requesting a special exception to the City of Decatur Code of Ordinances, Appendix B. "Zoning," Article 5. "Zoning Districts," Section 5.1 "Zoning Districts Established," Subsection 5.1.9 "C-1, Restricted Business District," Item D "Area Regulations," (1) "Size of Yards," (d) "Minimum Rear Yard," to reduce the required rear yard setback from ten feet (10') to two feet (2'), a reduction of eight feet (8') along the rear property line. However, the Board amended the request and placed the following condition: to allow the existing accessory structures to be the only structures permitted to encroach two feet (2') into the rear property line as identified in Attachment 3 "Plat Exhibit" of the Staff Report. The subject property is currently platted as part of Lots 8 and 9, Block 15, Range F, Devereux's Addition; it is proposed to be replatted as Lot 9-R, Block 15, Range F, Devereux's Addition and is more commonly referred to as 105 S. Lane Street, City of Decatur, Wise County, Texas. Board Member McCreary seconded the motion. The motion passed 5-0.

ITEM 2: Accept resignation of Vice-Chairman Will Klose.

Board Member McCreary made a motion to accept the resignation of Vice-Chairman Klose. Board Member Stone seconded the motion. The motion passed 5-0.

Planning Director Ragland asked Chairman Duncum if they were going to elect a Vice-Chairman or wait until Board Member Chandler returned. Chairman Duncum said that they would wait. Planning Director Ragland also informed the Board that the submittal deadline for ZBA Applications is Thursday, June 21, 2018, and there were currently no items for July.

Chairman Duncum adjourned meeting at 5:05 p.m.

Mark Duncum, Chairman

ATTEST:

Dedra Denée Ragland, Planning Director



CITY OF DECATUR, TEXAS

Development Services ★ 1601 S. State Street ★ Decatur, TX 76234 ★ (940) 393-0250 voice ★ (940) 626-4629 fax

STAFF REPORT

July 16, 2018 – Board of Adjustment Meeting

TO: (Zoning) Board of Adjustment

CASE: ZBA2018-10

FROM: Dedra D. Ragland, AICP, Planning Director **APPLICANT: John Pimentel on behalf of QuikTrip**

DATE: June 29, 2018

REQUEST: Rear Yard Setback 701 W. Hale St.

Subject:

Board to hear public input and consider taking action on Mr. John Pimentel's request, on behalf of QuikTrip Corporation, for a variance from the City of Decatur's Zoning Ordinance regarding rear yard setback. Specifically, applicant is requesting a variance to the City of Decatur Code of Ordinances, Appendix B. "Zoning," Article 5, "Zoning Districts," Section 5.1 "Zoning Districts Established," Subsection 5.1.11 "C-2, Thoroughfare Business Zoning District," Item D "Area Regulations," (1) "Size of Yard," (d) "Minimum Rear Yard," (ii) "Nonresidential: Ten feet (10')," to reduce the required rear yard setback for nonresidential from ten feet (10') to zero feet (0'), a reduction of ten feet (10'), along the southern property line. The subject property is platted as Lot 1, Block 1, QT 1853 Addition and is more commonly referred to as 701 W. Hale St., City of Decatur, Wise County, Texas.

Case Notes:

On April 19, 2018, the QT Corporation submitted several signs for review by the Development Review Committee. Upon review of the site plan, it was discovered that the pylon gas pricing sign does not meet the City's rear yard setback requirements. The applicant is requesting that the required ten feet (10') minimum rear yard setback be reduced to zero feet (0'), a variance of ten feet (10').

Legality:

According to the Texas Local Government Code, the Board of Adjustment can legally authorize variations to the Zoning Ordinance subject to the conditions listed below (§211.008 010). Each case before the board must be heard by 75 percent of its members (§211.008.d), and the board can only authorize a variation from the terms of the Zoning Ordinance with a concurring vote of 75 percent (§211.009.c).

Conditions for Approval:

The applicant must meet all of the following four conditions to be legally granted a variance or special exception.

Financial or self-induced hardship cannot be considered:

1. The requested variance or special exception does not violate the intent and spirit of the ordinance.
2. Special conditions of restricted area, shape, topography or physical features exist that are peculiar to the subject parcel and are not applicable to other parcels of land in the same zoning district.
3. The hardship is not the result of the applicant's actions, and
4. The interpretation of the provisions in this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district that comply with the same provisions.

Deciding Factors:

The Board of Adjustment reviews the application and the response to the four conditions, and then hears the case to determine if the applicant qualifies. If the Board feels the applicant has met the stated conditions, then the Board may approve the variation as long as it meets these criteria (§211.009.a.3):

- 1) The variation is not contrary to the public interest.
- 2) The variation is due to special conditions.
- 3) A literal enforcement of the ordinance would result in unnecessary hardship.

S:\Development_Services\Planning\ZBA Variances\Cases\2018\ZBA2018-10 701 W Hale St. QT Pole Sign - Rear Yard Setback\ZBA2018-10 Staff Report 071618.docx

- 4) The spirit of the ordinance is observed and substantial justice is done.

Recommendation:

Staff has the following finding:

1. The requested special exception **does not** violate the intent and spirit of the ordinance. The sign is proposed to be located in the rear of the lot and visible from the US Hwy 81/287 ramp. The sign is intended to provide visibility to the convenience store for travelers in both directions along US Hwy 81/287.
2. There **are** special conditions of restricted area, shape, topography or physical features that exist that are peculiar to the subject parcel and are not applicable to other parcels of land in the same zoning district. The subject property is zoned C2, Thoroughfare Business; however, the store will be located off the Highway ramp/frontage road. Visibility from both travel direction is desirable. The location of the store is on the bottom of the ramp decline.
3. The hardship **is not** a result of the applicant's action. Signs have three general purposes: to direct, inform and promote. If the sign was located along the US Hwy 81/287 ramp, it would be considered a highway pole sign and would be permitted additional square footage and height. However, access off the ramp into the parking was critical and the location of the sign is more feasible along the rear of the tract.
4. The interpretation of the provisions in this ordinance **could** deprive the applicant of rights commonly enjoyed by other properties in the same zoning district that comply with the same provisions.

Fourteen (14) property owners were notified. Staff has not received any responses in favor of, opposed to or neutral to the request.

Options:

Recommend approval:

From the evidence, testimony and plans presented, I move that the Board grant the request ZBA2018-10 to allow for a variance from the City of Decatur's Zoning Ordinance regarding rear yard setbacks. Specifically, applicant is requesting a variance to the City of Decatur Code of Ordinances, Appendix B. "Zoning," Article 5, "Zoning Districts," Section 5.1 "Zoning Districts Established," Subsection 5.1.11 "C-2, Thoroughfare Business Zoning District," Item D "Area Regulations," (1) "Size of Yard," (d) "Minimum Rear Yard," (ii) Nonresidential: Ten feet (10') to reduce the required rear yard setback for nonresidential from ten feet (10') to zero feet (0'), a reduction of ten feet (10'), along the southern property line. The subject property is platted as Lot 1, Block 1, QT 1853 Addition and is more commonly referred to as 701 W. Hale St., City of Decatur, Wise County, Texas.

Recommend approval with conditions:

From the evidence, testimony and plans presented, I move that the Board grant the request ZBA2018-09 to allow for a special exception from the City of Decatur's Zoning Ordinance regarding front yard setbacks. Specifically, applicant is requesting a variance to the City of Decatur Code of Ordinances, Appendix B. "Zoning," Article 5, "Zoning Districts," Section 5.1 "Zoning Districts Established," Subsection 5.1.11 "C-2, Thoroughfare Business Zoning District," Item D "Area Regulations," (1) "Size of Yard," (d) "Minimum Rear Yard," (ii) Nonresidential: Ten feet (10') to reduce the required rear yard setback for nonresidential from ten feet (10') to zero feet (0'), a reduction of ten feet (10'), along the southern property line. The subject property is platted as Lot 1, Block 1, QT 1853 Addition and is more commonly referred to as 701 W. Hale St., City of Decatur, Wise County, Texas. The conditions being as follows:...

Recommend denial:

From the evidence, testimony and plans presented, I move that the Board deny the request ZBA2018-09 to allow for a special exception from the City of Decatur's Zoning Ordinance regarding front yard setbacks. Specifically, applicant is requesting a variance to the City of Decatur Code of Ordinances, Appendix B. "Zoning," Article 5, "Zoning Districts," Section 5.1 "Zoning Districts Established," Subsection 5.1.11 "C-2, Thoroughfare Business

Zoning District,” Item D “Area Regulations,” (1) “Size of Yard,” (d) “Minimum Rear Yard,” (ii) Nonresidential: Ten feet (10’) to reduce the required rear yard setback for nonresidential from ten feet (10’) to zero feet (0’), a reduction of ten feet (10’), along the southern property line. The subject property is platted as Lot 1, Block 1, QT 1853 Addition and is more commonly referred to as 701 W. Hale St., City of Decatur, Wise County, Texas. Denial is based on the following findings:...

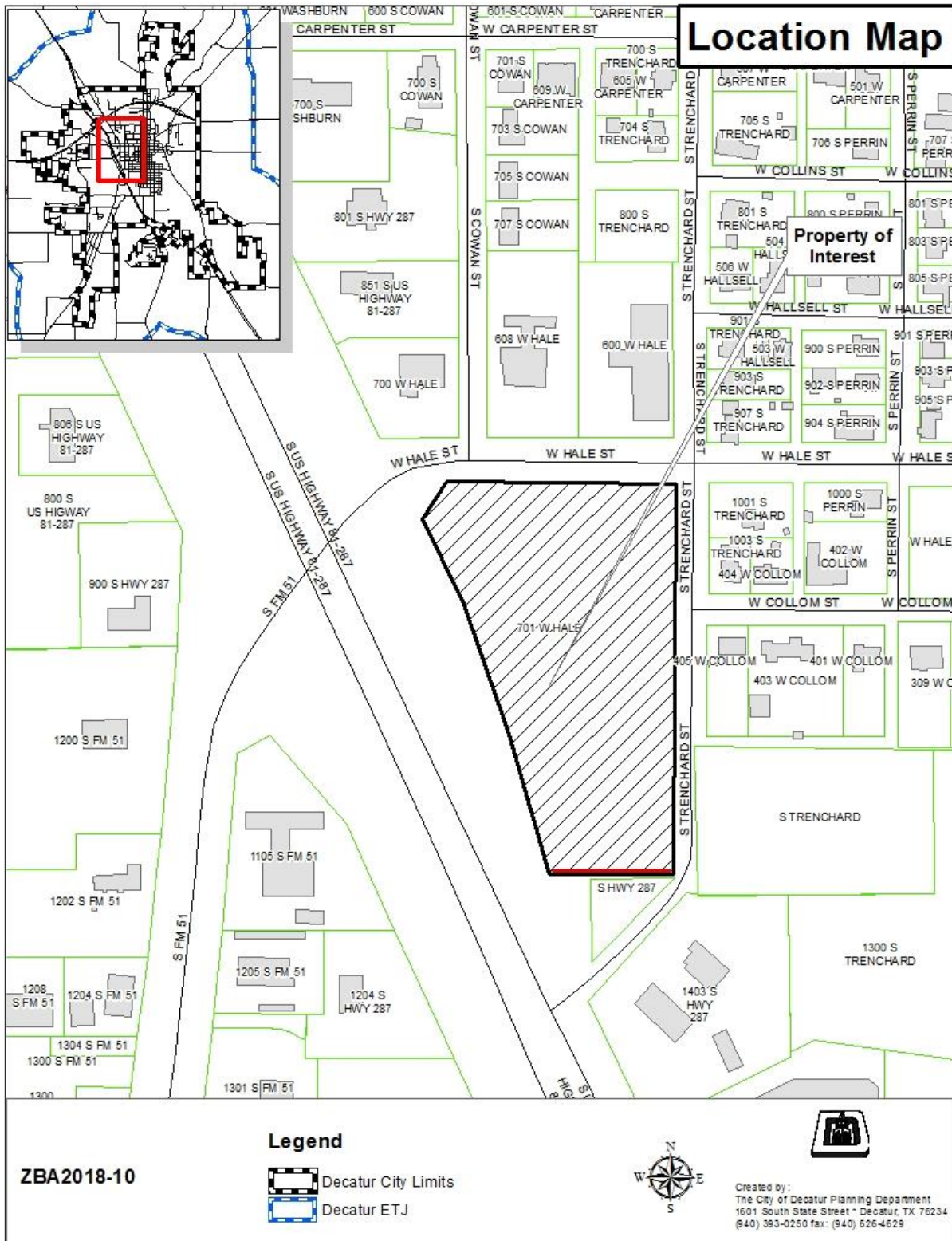
Recommend postponing consideration:

From the evidence, testimony and plans presented, I move that the Board postpone consideration of request to a date certain, and requesting additional information for the request ZBA2018-08 to allow for a special exception from the City of Decatur’s Zoning Ordinance regarding rear yard setbacks. Specifically, applicant is requesting a variance to the City of Decatur Code of Ordinances, Appendix B. “Zoning,” Article 5, “Zoning Districts,” Section 5.1 “Zoning Districts Established,” Subsection 5.1.11 “C-2, Thoroughfare Business Zoning District,” Item D “Area Regulations,” (1) “Size of Yard,” (d) “Minimum Rear Yard,” (ii) Nonresidential: Ten feet (10’) to reduce the required rear yard setback for nonresidential from ten feet (10’) to zero feet (0’), a reduction of ten feet (10’), along the southern property line. The subject property is platted as Lot 1, Block 1, QT 1853 Addition and is more commonly referred to as 701 W. Hale St., City of Decatur, Wise County, Texas.

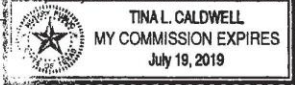
Attachments

1. Location Map
2. Application, Checklist and Letter of Intent
3. Proposed Plat Exhibit
4. 200’ Property Owner Notification Map and Responses
5. Memo from City Engineer
6. Photos

Attachment 1
Location Map



Application, Checklist and Letter of Intent

CITY OF DECATUR DEVELOPMENT SERVICES UNIVERSAL APPLICATION		
Check box to indicate application type		Incomplete applications will be rejected
<input type="checkbox"/> Annexation Petition	<input type="checkbox"/> Gas Well Development Plat	<input type="checkbox"/> Specific Use Permit
<input type="checkbox"/> Amending Plat	<input type="checkbox"/> Plat Extension-Final or Preliminary	<input type="checkbox"/> Subdivision Variance
<input type="checkbox"/> Comprehensive Plan Amendment	<input type="checkbox"/> Preliminary Plat	<input type="checkbox"/> Zoning Change
<input type="checkbox"/> Conveyance Instrument	<input type="checkbox"/> Replat	<input checked="" type="checkbox"/> Zoning Variance (ZBA)
<input type="checkbox"/> Design Standards Variance	<input type="checkbox"/> ROW Use Agreement	<input type="checkbox"/> Vacation Plat
<input type="checkbox"/> Final Plat	<input type="checkbox"/> ROW Abandonment/ Closing	<input type="checkbox"/> Other _____
Application Requirements: Signed application form, application fees, Copy and filing fees, Proof of Ownership (Recorded Deed or current tax statements), required # of plats / plans, signed checklist and a PDF of all documentation.		
PROJECT INFORMATION: <input type="checkbox"/> Residential <input type="checkbox"/> Commercial Is this property platted? <input type="checkbox"/> Yes <input type="checkbox"/> No <i>If this property is not platted, submit a survey with complete metes and bounds description sealed by a licensed surveyor</i>		
Project Name: <u>QuikTrip 1853</u>		Total Acres: <u>5.3621</u>
Project Address (Location): <u>701 W Hale Ave</u>		Parcel(s) Tax ID R #: <u>73-0675375</u>
Parent Project Name/Number: <u>N/A</u>		Parcel(s) Tax ID GEO #: <u>D2790-0153-00</u>
Brief Description of Project: <u>Installation of a 100' 712 square feet pylon sign within a 25' setback</u> <input type="checkbox"/> Yes <input type="checkbox"/> No		
<i>Please state the identity of any individual(s), or other entities that presently hold a lien upon the real estate which is the subject of this request:</i> _____ <i>Lien holder/mortgagee must also sign plat for filing of record.</i>		
Existing Use: <u>Vacant</u>		Existing Zoning: <u>C-2</u> # of Existing Lots: <u>1</u> # of Existing Units: <u>1</u>
Proposed Use: <u>C-Store with gas sales</u>		Proposed Zoning: <u>C-2</u> # of Proposed Lots: <u>1</u> Proposed Units: <u>1</u>
APPLICANT INFORMATION: Please circle your preferred method of contact.		
Applicant / Company: <u>John Pimentel - QuikTrip Corporation</u>		Email: <u>john.pimentel@quiktrip.com</u>
Address: <u>1120 N Industrial Blvd</u>		Phone: <u>817-786-3192</u> Fax: _____
City: <u>Euless</u> State: <u>TX</u>		Zip: <u>76039</u>
Property Owner: <u>John Pimentel - QuikTrip Corporation</u>		Email: <u>john.pimentel@quiktrip.com</u>
Address: <u>1120 N Industrial Blvd</u>		Phone: <u>817-786-3192</u> Fax: _____
City: <u>Euless</u> State: <u>TX</u>		Zip: <u>76039</u>
Key Contact/Company: <u>John Pimentel - QuikTrip Corporation</u>		Email: <u>john.pimentel@quiktrip.com</u>
Address: <u>1120 N Industrial Blvd</u>		Phone: <u>817-786-3192</u> Fax: _____
City: <u>Euless</u> State: <u>TX</u>		Zip: <u>76039</u>
(MUST BE SIGNED FOR ALL APPLICATIONS) - Letter of authorization required if signature is other than property owner and a letter of authorization is required from lienholder/mortgagee, if applicable. I hereby certify that I am the owner of the property identified in this application; or, that I am the authorized agent of the owner of said property; and that I am authorized to act in their behalf, and that this application, to the best of my knowledge and belief, is true and correct.		
SIGNATURE OF PROPERTY OWNER: _____ SIGNATURE OF LIEN HOLDER: _____		For Departmental Use Only Case#: _____ Project Mgr: _____ Total Fee(s): _____ Payment Method: _____ Submittal Date: _____ Accepted By: _____
PLAT WAIVER (MUST BE SIGNED FOR ALL PRELIMINARY, FINAL & REPLATS) I waive the statutory time limits in accordance with Section 212 of the Texas Local Government Code.		
SIGNATURE OF PROPERTY OWNER: _____ SIGNATURE OF LIEN HOLDER: _____		
Known to me to be the person(s) whose name is subscribed to the above and foregoing instrument, and acknowledged to me that they executed the same for the purposes and consideration expressed and in the capacity therein stated, on this _____ day of _____, 20____.		
Notary Public: _____ 		



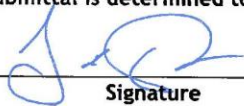
CITY OF DECATUR, TEXAS

Development Services ★ 1601 S. State St ★ P.O. Box 1299 ★ Decatur, TX 76234 ★ www.decaturtx.org

Board of Adjustment Application Checklist

General Requirements:

- ☒ A universal application form and the appropriate fees.
- ☒ A letter of explanation/justification.
- ☒ Submit a total of five (5) copies of site plan (if applicable) for the property. These copies should be individually folded with drawing side out.
- ☒ A location map clearly indicating the site in relation to adjacent streets, distance to nearest intersection and other landmarks.
- ☒ Submit one (1) copy of proof of ownership (recorded property deed or current year tax statements).
- ☒ Submit documentation on any and all liens and lien holders of property.
- ☐ One (1) CD-ROM containing the general required documents in Adobe PDF format.
- ☐ I have reviewed the checklist and all submittals for completeness and accuracy. If application submittal is determined to be incomplete, additional fees may be assessed.


Signature

6/15/2018
Date

Content of the Letter of explanation/justification for a Zoning Variance:

I understand that I am applying for a variance from the Zoning Ordinance of the City of Decatur and that this variance can only be granted if I prove hardship by meeting four of the conditions below. I also understand that financial or self-induced hardship cannot be considered for granting a variance. Below I explain exactly how I meet these four conditions.

1. The requested variance does not violate the intent and spirit of the ordinance:

We do not believe that our request will put the safety and public health at risk. We believe that our request will result in convenience for the public. Given our use, we want to ensure the traveling public, in this case, large trucks can view the sign and have the time to safely react

2. Special conditions of restricted area, shape, topography or physical features exist that are peculiar to the subject parcel of land and are not applicable to the other parcels of land in the same zoning district:

There is a 30' raise in grade as you approach our exit. Additionally, our use requires sign visibility to give the public ample time to safely maneuver.

3. The hardship is in no way the result of the applicant's action:

The 30' raise in grade is existing.

4. The interpretation of the provisions in this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district that comply with the same provisions:

Our proposed sign fits the context and character of the Freeway corridor.

Form Updated 04/05/2017



QuikTrip Corporation

DALLAS / FORT WORTH DIVISION
1120 North Industrial Boulevard
Euless, Texas 76039-7700
817-358-7680
Fax: 817-858-0213

City of Decatur
Zoning Board of Adjustment
201 E Walnut St
Decatur, TX 76234

RE: Sign Variance Request

Dear Zoning Board of Adjustment members,

QuikTrip would like to respectfully request that a setback variance be granted for our proposed pylon sign. Based on the visibility, the traveling speed on US 287, and distance to the exit ramps QuikTrip is requesting a 0' setback from the southern property line. The sign placement is critical given its current configuration and purpose. This location not only serves the general traveling public, but large commercial trucks as well. Both groups of customers need adequate time to view our advertised prices and be able to react if they choose to exit. The goal is to allow enough time to safely change lanes. QuikTrip wants to ensure our customers and employees are able to enter and exit our sites in a safe manner. We flew the sign locations several times and the result was that this was the ideal spot for visibility. Additionally, there is a 30' raise in grade as you approach our exit limiting visibility. The hardships suffered at this property are related to the existing topography and our use. We feel that our proposed pylon sign fits the context and character of the freeway corridor. We do not feel that this request violates the intent and spirit of the ordinance as the request will not put the public health at risk. By having a visible sign, we believe this can help prevent motorist conflict.

QuikTrip is proposing to construct and operate a 24-hour Convenience Store with Beer and Wine Sales for off-premise consumption only and retail motor fuel and diesel sales. The proposed QuikTrip can comply with all ordinances and requirements within the Commercial (C-2) District, except as follows;

Pylon Sign

- Setback requirement of 10', we are seeking variance to allow for 0'

We believe that our development will provide a family oriented, clean and modern facility for the citizens of Decatur and the traveling public. We provide many of the items you will find in your larger grocery stores, with very similar pricing. We are also making great strides in the food industry and currently have a commissary in Coppell that caters to all 135 DFW locations. We will have fresh foods delivered daily such as pastries, wraps, salads, sandwiches, and desserts.

QuikTrip takes great pride in our employees and our stores. We build our facilities to last fifty years and we maintain them so that they will. We have an in-house Facility Support team that maintains our stores daily. They are called on to maintain the landscaping, machines, paving, and all aesthetic features of the store.

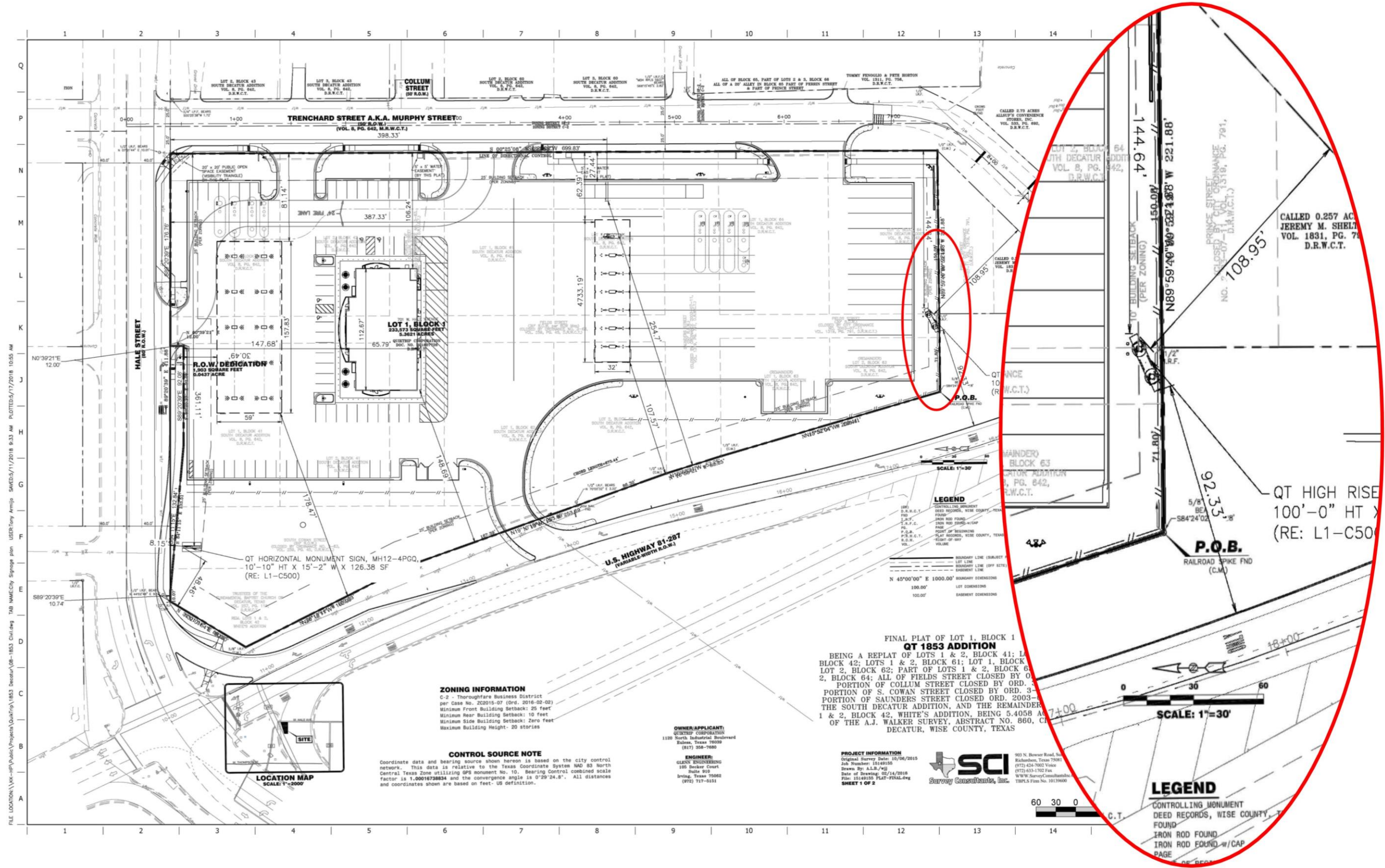
As previously stated, we are a family oriented business. QuikTrip does not carry any drug paraphernalia or inappropriate magazines. QuikTrip is a place where you can bring the entire family and you will always receive fast and friendly customer service.

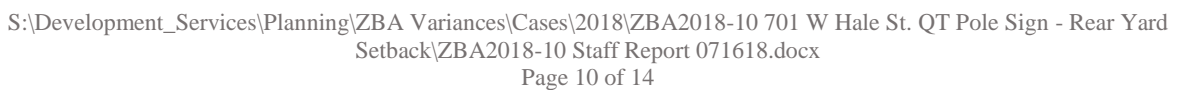
Thank you,



John Pimentel | QuikTrip Corporation | Real Estate Project Manager
O. (817) 786.3192 | C. (214) 797.0371 | F. (817) 858.0213
1120 N. Industrial Blvd. Euless, TX 76039

Attachment 3
Plat Exhibit





None to date

Memo from City Engineer



**City of Decatur
City Engineer**

Memo

To: Cheryl Fuss
Dedra Ragland

Cc: Greg Hall
Katherine Griffith

From: Earl Smith, P.E., CFM, City Engineer

Date: 06/26/2018

Re: ZBA 2018-10; Variance Request, Rear Yard Setback for POLE SIGN; Lot 1, Block 1, QT 1853 Addition; 701 W. Hale

Comments on Variance Request:

• 4.3.3 Authority of Board of Adjustment

The Board of Adjustment shall have the authority, subject to the standards established in Chapter 211 of the Texas Local Government Code, as amended, and those established herein, to exercise powers and to perform duties including the following:

- (2) *Variances and Special Exceptions.* Authorize, in specific cases, a Variance or Special Exception (see [4.3.5](#) Appeals to the Board of Adjustment and [4.3.7](#) Special Exceptions) from the terms of this Ordinance if the variance or special exception is not contrary to the public interest and if, due to special conditions, a literal enforcement of the Ordinance would result in unnecessary hardship, and so that the spirit of this Ordinance is observed and substantial justice is done.

4.3.6 Variances

C. Criteria for Granting a Variance.

(2) *Findings of Undue Hardship.*

(a) In order to grant a variance, the Board of Adjustment shall make findings that an undue hardship exists, using the following criteria:

- (i) Literal enforcement of the controls will create an unnecessary hardship or practical difficulty in the development of the affected property;

According to applicant, grade changes in terrain limit visibility of sign for motorist along US HWY 81/287. The Traffic Impact Analysis prepared for the project predicts most customers will access the site from the northbound frontage road, therefore, sign visibility is most important. The structure causes no sight problems for traffic or impedes any views by neighboring properties.

and

- (ii) The situation causing the hardship or difficulty is neither self-imposed nor is it a situation generally affecting all or most properties in the same zoning district;

The structure should not cause any sight problems for traffic or impede any views by neighboring properties.

and

- (iii) The relief sought will not injure the permitted use of adjacent conforming property;

The structure causes no sight problems for traffic or impedes any views by neighboring properties.

ZBA 2018-10; Variance Request, Rear Yard Setback for POLE SIGN; Lot 1, Block 1, QT 1853
Addition; 701 W. Hale; cont'd.

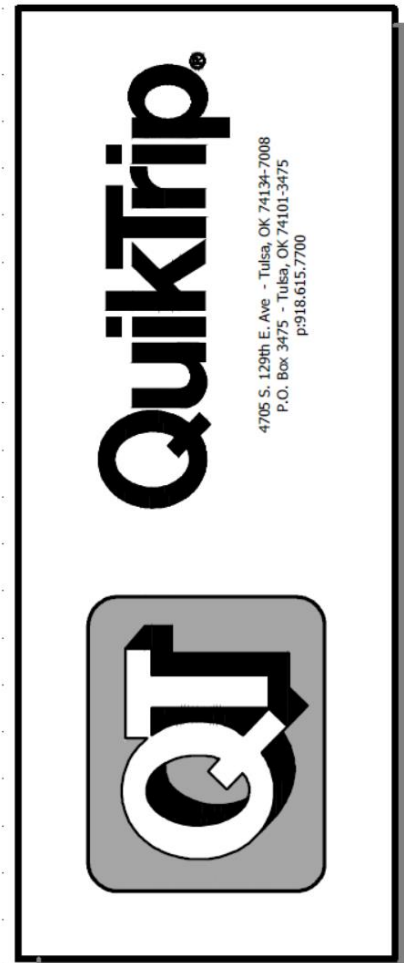
and

(iv) The granting of a variance will be in harmony with the spirit and purpose of these regulations.

Area surrounding property is built out; no future subdivision of properties in area is practical.

Attachment 6

Photos





CITY OF DECATUR, TEXAS

Development Services ★ 1601 S. State Street ★ Decatur, TX 76234 ★ (940) 393-0250 voice ★ (940) 626-4629 fax

STAFF REPORT

July 16, 2018 – Board of Adjustment Meeting

TO: (Zoning) Board of Adjustment **CASE: ZBA2018-11**
FROM: Dedra D. Ragland, AICP, Planning Director **APPLICANT: John Pimentel on behalf of QuikTrip**
DATE: June 29, 2018 **REQUEST: Front Yard Setback 701 W. Hale St.**

Subject:

Board to hear public input and consider taking action on Mr. John Pimentel's request, on behalf of QuikTrip Corporation, for a variance from the City of Decatur's Zoning Ordinance regarding front yard setback. Specifically, applicant is requesting a variance to the City of Decatur Code of Ordinances, Appendix B. "Zoning," Article 5, "Zoning Districts," Section 5.1 "Zoning Districts Established," Subsection 5.1.11 "C-2, Thoroughfare Business District," Item D "Area Regulations," (1) "Size of Yard," (a) "Minimum Front Yard: Twenty-five feet (25')," to reduce the required front yard setback twenty-five feet (25') to seven feet (7'), a reduction of eighteen feet (18'), along west Hale Street. The subject property is platted as Lot 1, Block 1, QT 1853 Addition and is more commonly referred to as 701 W. Hale St., City of Decatur, Wise County, Texas.

Case Notes:

On April 19, 2018, the QT Corporation submitted several signs for review by the Development Review Committee. Upon review of the site plan, it was discovered that the monument sign with gas pricing does not meet the City's front yard setback requirements. The applicant is requesting that the required twenty-five feet (25') minimum front yard setback be reduced to seven feet (7'), a variance of eighteen feet (18').

Legality:

According to the Texas Local Government Code, the Board of Adjustment can legally authorize variations to the Zoning Ordinance subject to the conditions listed below (§211.008 010). Each case before the board must be heard by 75 percent of its members (§211.008.d), and the board can only authorize a variation from the terms of the Zoning Ordinance with a concurring vote of 75 percent (§211.009.c).

Conditions for Approval:

The applicant must meet all of the following four conditions to be legally granted a variance or special exception.

Financial or self-induced hardship cannot be considered:

1. The requested variance or special exception does not violate the intent and spirit of the ordinance.
2. Special conditions of restricted area, shape, topography or physical features exist that are peculiar to the subject parcel and are not applicable to other parcels of land in the same zoning district.
3. The hardship is not the result of the applicant's actions, and
4. The interpretation of the provisions in this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district that comply with the same provisions.

Deciding Factors:

The Board of Adjustment reviews the application and the response to the four conditions, and then hears the case to determine if the applicant qualifies. If the Board feels the applicant has met the stated conditions, then the Board may approve the variation as long as it meets these criteria (§211.009.a.3):

- 1) The variation is not contrary to the public interest.
- 2) The variation is due to special conditions.
- 3) A literal enforcement of the ordinance would result in unnecessary hardship.
- 4) The spirit of the ordinance is observed and substantial justice is done.

Recommendation:***Staff has the following finding:***

1. The requested special exception **does not** violate the intent and spirit of the ordinance. The sign is proposed to be located at the corner of Hale Street and the US Hwy 81/287 ramp. The sign is intended to provide visibility prior to coming up on the convenience store for travelers in all directions primarily along Hale Street.
2. There **are** special conditions of restricted area, shape, topography or physical features that exist that are peculiar to the subject parcel and are not applicable to other parcels of land in the same zoning district. The subject property is zoned C2, Thoroughfare Business; however, the store will be located off the Highway ramp/frontage road. Drivers on the road headed east bound will have some visibility issues due to the bend in the road. Drivers headed west bound will have visibility issues due to large mature trees east of the store.
3. The hardship **is not** a result of the applicant's action. Signs have three general purposes: to direct, inform and promote. The configuration of the overpass and the trees are existing.
4. The interpretation of the provisions in this ordinance **could** deprive the applicant of rights commonly enjoyed by other properties in the same zoning district that comply with the same provisions. The proposed sign fits the context and character of the Freeway corridor.

Fourteen (14) property owners were notified. Staff has received one (1) response opposed and none in favor of, or neutral to the request.

Options:**Recommend approval:**

From the evidence, testimony and plans presented, I move that the Board grant the request ZBA2018-11 to allow for a variance from the City of Decatur's Zoning Ordinance regarding front yard setbacks. Specifically, applicant is requesting a variance to the City of Decatur Code of Ordinances, Appendix B. "Zoning," Article 5, "Zoning Districts," Section 5.1 "Zoning Districts Established," Subsection 5.1.11 "C-2, Thoroughfare Business District," Item D "Area Regulations," (1) "Size of Yard," (a) "Minimum Front Yard," to reduce the required front yard setback twenty-five feet (25') to seven feet (7'), a reduction of eighteen feet (18'), along west Hale Street. The subject property is platted as Lot 1, Block 1, QT 1853 Addition and is more commonly referred to as 701 W. Hale St., City of Decatur, Wise County, Texas.

Recommend approval with conditions:

From the evidence, testimony and plans presented, I move that the Board grant the request ZBA2018-11 to allow for a variance from the City of Decatur's Zoning Ordinance regarding front yard setbacks. Specifically, applicant is requesting a variance to the City of Decatur Code of Ordinances, Appendix B. "Zoning," Article 5, "Zoning Districts," Section 5.1 "Zoning Districts Established," Subsection 5.1.11 "C-2, Thoroughfare Business District," Item D "Area Regulations," (1) "Size of Yard," (a) "Minimum Front Yard," to reduce the required front yard setback twenty-five feet (25') to seven feet (7'), a reduction of eighteen feet (18'), along west Hale Street. The subject property is platted as Lot 1, Block 1, QT 1853 Addition and is more commonly referred to as 701 W. Hale St., City of Decatur, Wise County, Texas. The conditions being as follows:...

Recommend denial:

From the evidence, testimony and plans presented, I move that the Board deny the request ZBA2018-11 to allow for a variance from the City of Decatur's Zoning Ordinance regarding front yard setbacks. Specifically, applicant is requesting a variance to the City of Decatur Code of Ordinances, Appendix B. "Zoning," Article 5, "Zoning Districts," Section 5.1 "Zoning Districts Established," Subsection 5.1.11 "C-2, Thoroughfare Business District," Item D "Area Regulations," (1) "Size of Yard," (a) "Minimum Front Yard," to reduce the required front yard setback twenty-five feet (25') to seven feet (7'), a reduction of eighteen feet (18'), along west Hale Street. The subject property is platted as Lot 1, Block 1, QT 1853 Addition and is more commonly referred to as 701 W. Hale St., City of Decatur, Wise County, Texas. Denial is based on the following findings:...

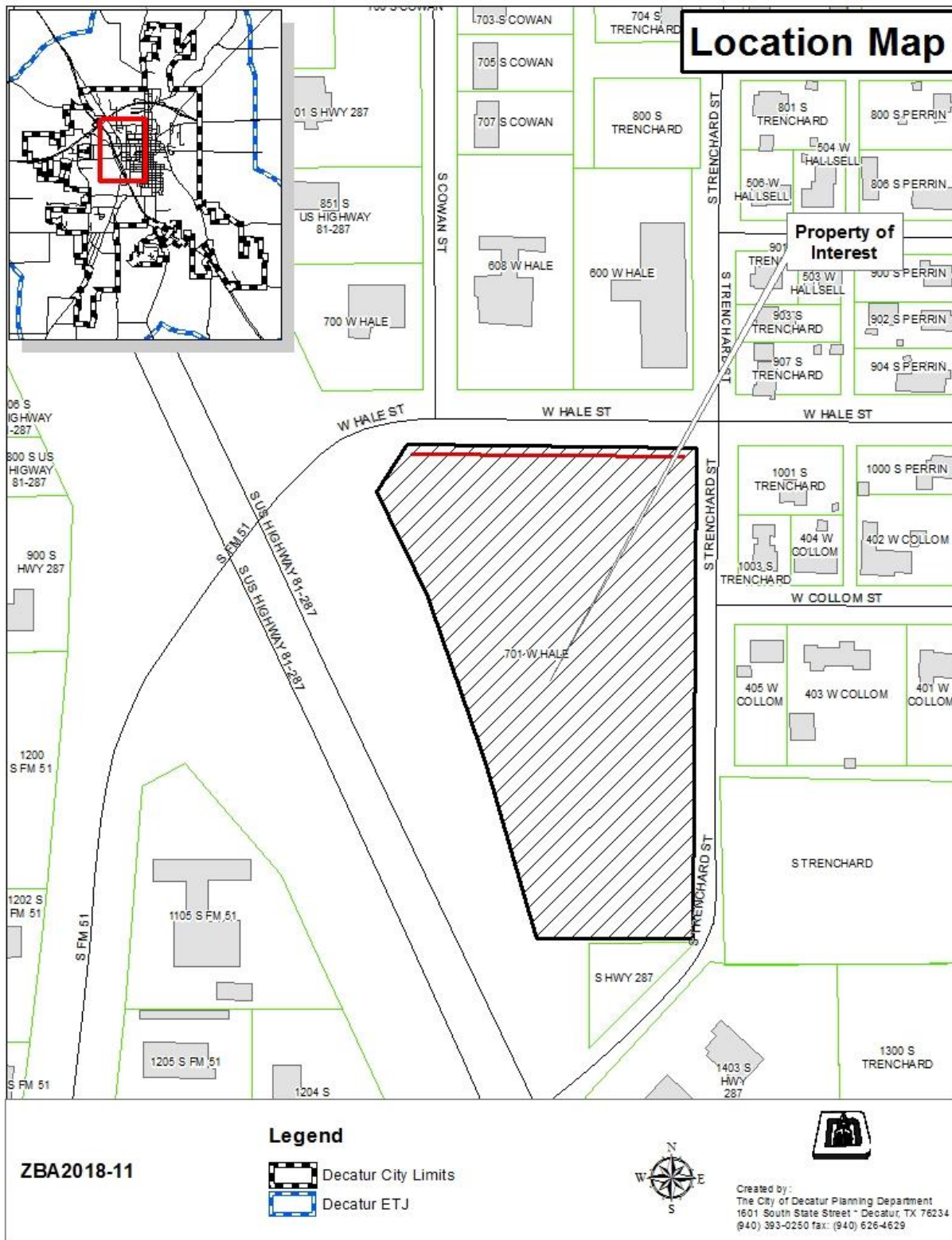
Recommend postponing consideration:

From the evidence, testimony and plans presented, I move that the Board postpone consideration of request ZBA2018-11 to allow for a variance from the City of Decatur's Zoning Ordinance regarding front yard setbacks. Specifically, applicant is requesting a variance to the City of Decatur Code of Ordinances, Appendix B. "Zoning," Article 5, "Zoning Districts," Section 5.1 "Zoning Districts Established," Subsection 5.1.11 "C-2, Thoroughfare Business District," Item D "Area Regulations," (1) "Size of Yard," (a) "Minimum Front Yard," to reduce the required front yard setback twenty-five feet (25') to seven feet (7'), a reduction of eighteen feet (18'), along west Hale Street. The subject property is platted as Lot 1, Block 1, QT 1853 Addition and is more commonly referred to as 701 W. Hale St., City of Decatur, Wise County, Texas.

Attachments

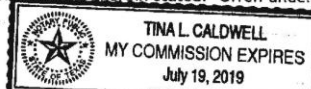
1. Location Map
2. Application, Checklist and Letter of Intent
3. Proposed Plat Exhibit
4. 200' Property Owner Notification Map and Responses
5. Memo from City Engineer
6. Photos

Attachment 1
Location Map



Application, Checklist and Letter of Intent

CITY OF DECATUR DEVELOPMENT SERVICES UNIVERSAL APPLICATION		
Check box to indicate application type	<i>Incomplete applications will be rejected</i>	
<input type="checkbox"/> Annexation Petition <input type="checkbox"/> Amending Plat <input type="checkbox"/> Comprehensive Plan Amendment <input type="checkbox"/> Conveyance Instrument <input type="checkbox"/> Design Standards Variance <input type="checkbox"/> Final Plat	<input type="checkbox"/> Gas Well Development Plat <input type="checkbox"/> Plat Extension-Final or Preliminary <input type="checkbox"/> Preliminary Plat <input type="checkbox"/> Replat <input type="checkbox"/> ROW Use Agreement <input type="checkbox"/> ROW Abandonment/ Closing	<input type="checkbox"/> Specific Use Permit <input type="checkbox"/> Subdivision Variance <input type="checkbox"/> Zoning Change <input checked="" type="checkbox"/> Zoning Variance (ZBA) <input type="checkbox"/> Vacation Plat <input type="checkbox"/> Other _____
Application Requirements: Signed application form, application fees, Copy and filing fees, Proof of Ownership (Recorded Deed or current tax statements), required # of plats / plans, signed checklist and a PDF of all documentation.		
PROJECT INFORMATION: <input type="checkbox"/> Residential <input type="checkbox"/> Commercial Is this property platted? <input type="checkbox"/> Yes <input type="checkbox"/> No <i>If this property is not platted, submit a survey with complete metes and bounds description sealed by a licensed surveyor</i> Project Name: <u>QuikTrip 1853</u> Total Acres <u>5.3621</u> Project Address (Location): <u>701 W Hale Ave</u> Parcel(s) Tax ID R #: <u>73-0675375</u> <small>(LOT, BLOCK & SUBDIVISION OR SURVEY WITH METES & BOUNDS DESCRIPTION SEALED BY A LICENSED SURVEYOR)</small> Parent Project Name/Number <u>N/A</u> Parcel(s) Tax ID GEO #: <u>D2790-0153-00</u> Brief Description of Project: <u>Installation of a 10'-10" monument sign 7' from the property line</u> ETJ <input type="checkbox"/> Yes Please state the identity of any individual(s), or other entities that presently hold a lien upon the real estate which is the subject of this request: _____ <i>Lien holder/mortgagee must also sign plat for filing of record.</i> Existing Use: <u>Vacant</u> Existing Zoning: <u>C-2</u> # of Existing Lots: <u>1</u> # of Existing Units: <u>1</u> Proposed Use: <u>C-Store with gas sales</u> Proposed Zoning: <u>C-2</u> # of Proposed Lots: <u>1</u> Proposed Units: <u>1</u>		
APPLICANT INFORMATION: Please circle your preferred method of contact. Applicant / Company <u>John Pimentel - QuikTrip Corporation</u> Email <u>john.pimentel@quiktrip.com</u> Address <u>1120 N Industrial Blvd</u> Phone <u>817-786-3192</u> Fax _____ City <u>Eufless</u> State <u>TX</u> Zip <u>76039</u>		
Property Owner <u>John Pimentel - QuikTrip Corporation</u> Email <u>john.pimentel@quiktrip.com</u> Address <u>1120 N Industrial Blvd</u> Phone <u>817-786-3192</u> Fax _____ City <u>Eufless</u> State <u>TX</u> Zip <u>76039</u>		
Key Contact/Company <u>John Pimentel - QuikTrip Corporation</u> Email <u>john.pimentel@quiktrip.com</u> Address <u>1120 N Industrial Blvd</u> Phone <u>817-786-3192</u> Fax _____ City <u>Eufless</u> State <u>TX</u> Zip <u>76039</u>		
(MUST BE SIGNED FOR ALL APPLICATIONS) - Letter of authorization required if signature is other than property owner and a letter of authorization is required from lienholder/mortgagee, if applicable. I hereby certify that I am the owner of the property identified in this application; or, that I am the authorized agent of the owner of said property; and that I am authorized to act in their behalf, and that this application, to the best of my knowledge and belief, is true and correct. _____ SIGNATURE OF PROPERTY OWNER		For Departmental Use Only Case#: _____ Project Mgr: _____ Total Fee(s): _____ Payment Method: _____ Submittal Date: _____ Accepted By: _____
PLAT WAIVER (MUST BE SIGNED FOR ALL PRELIMINARY, FINAL & REPLATS) I waive the statutory time limits in accordance with Section 212 of the Texas Local Government Code. _____ SIGNATURE OF PROPERTY OWNER		
_____ SIGNATURE OF LIEN HOLDER Known to me to be the person(s) whose name is subscribed to the above and foregoing instrument, and acknowledged to me that they executed the same for the purposes and consideration expressed and in the capacity therein stated. Given under my hand and seal of office on this <u>15th</u> day of <u>June</u> 20 <u>18</u>		
_____ Notary Public		





CITY OF DECATUR, TEXAS

Development Services ★ 1601 S. State St ★ P.O. Box 1299 ★ Decatur, TX 76234 ★ www.decaturtx.org

Board of Adjustment Application Checklist

General Requirements:

- ☒ A universal application form and the appropriate fees.
- ☒ A letter of explanation/justification.
- ☒ Submit a total of five (5) copies of site plan (if applicable) for the property. These copies should be individually folded with drawing side out.
- ☒ A location map clearly indicating the site in relation to adjacent streets, distance to nearest intersection and other landmarks.
- ☒ **Submit one (1) copy of proof of ownership (recorded property deed or current year tax statements).**
- ☒ **Submit documentation on any and all liens and lien holders of property.**
- ☐ One (1) CD-ROM containing the general required documents in Adobe PDF format.
- ☐ I have reviewed the checklist and all submittals for completeness and accuracy. If application submittal is determined to be incomplete, additional fees may be assessed.

JG2
Signature

6/15/2018
Date

Content of the Letter of explanation/justification for a Zoning Variance:

I understand that I am applying for a variance from the Zoning Ordinance of the City of Decatur and that this variance can only be granted if I prove hardship by meeting four of the conditions below. I also understand that financial or self-induced hardship cannot be considered for granting a variance. Below I explain exactly how I meet these four conditions.

1. The requested variance does not violate the intent and spirit of the ordinance:

We do not believe that our request will put the safety and public health at risk. We believe we our request will result in convenience for the public. Given our use, we want to ensure the traveling public can view the sign and have the time to safely react.

2. Special conditions of restricted area, shape, topography or physical features exist that are peculiar to the subject parcel of land and are not applicable to the other parcels of land in the same zoning district:

Drivers on the road headed east bound will have some visibility issues due to the bend on the road. Drivers headed west bound will have visibility issues due to large mature established trees east of the store.

3. The hardship is in no way the result of the applicant's action:

The configuration of the overpass and trees are existing.

4. The interpretation of the provisions in this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district that comply with the same provisions:

Our proposed sign fits the context and character of the Freeway corridor.

Form Updated 04/05/2017



QuikTrip Corporation

DALLAS / FORT WORTH DIVISION
1120 North Industrial Boulevard
Euless, Texas 76039-7700
817-358-7680
Fax: 817-858-0213

City of Decatur
Zoning Board of Adjustment
201 E Walnut St
Decatur, TX 76234

RE: Sign Variance Request

Dear Zoning Board of Adjustment members,

QuikTrip would like to respectfully request that a setback variance be granted for our proposed monument sign located adjacent to Hale St. We are seeking a variance to allow for a 7' setback. We are requesting this variance in order to affectively advertise our gas price and provide motorist visibility to make safe and timely lane change maneuvers. For motorist traveling eastbound on Hale St., visibility is an issue due to the curvature of the overpass. For motorist traveling westbound on Hale St, visibility is an issue due to large existing mature trees. In addition to existing conditions, given our use, large commercial trucks could also be a hinderance to sign visibility. The goal is to allow enough time to safely change lanes and for customers as well as employees to enter and exit our sites in a safe manner. The hardships suffered at this property are related to the existing conditions and our current approved use. We feel that our proposed monument sign fits the context and character of the freeway corridor. We do not feel that this request violates the intent and spirit of the ordinance as the request will not put the public health at risk. By having a visible sign, we believe this can help prevent motorist conflict.

QuikTrip is proposing to construct and operate a 24-hour Convenience Store with Beer and Wine Sales for off-premise consumption only and retail motor fuel and diesel sales. The proposed QuikTrip can comply with all ordinances and requirements within the Commercial (C-2) District, except as follows;

Monument Sign

- Seeking variance to reduce the required setback of 25' to 7'

We believe that our development will provide a family oriented, clean and modern facility for the citizens of Decatur and the traveling public. We provide many of the items you will find in your larger grocery stores, with very similar pricing. We are also making great strides in the food industry and currently have a commissary in Coppell that caters to all 135 DFW locations. We will have fresh foods delivered daily such as pastries, wraps, salads, sandwiches, and desserts.

QuikTrip takes great pride in our employees and our stores. We build our facilities to last fifty years and we maintain them so that they will. We have an in-house Facility Support team that maintains our stores daily. They are called on to maintain the landscaping, machines, paving, and all aesthetic features of the store.

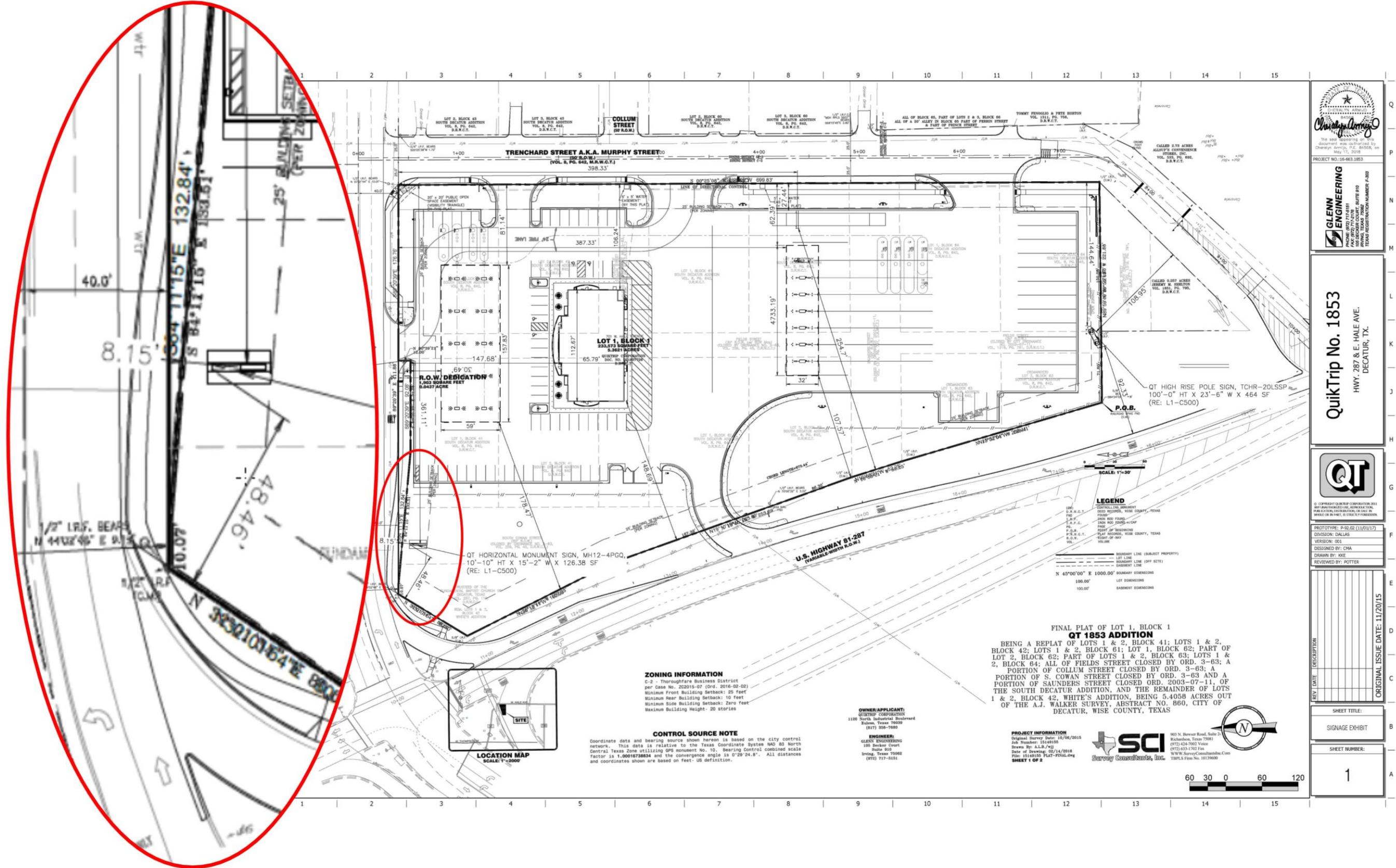
As previously stated, we are a family oriented business. QuikTrip does not carry any drug paraphernalia or inappropriate magazines. QuikTrip is a place where you can bring the entire family and you will always receive fast and friendly customer service.

Thank you,

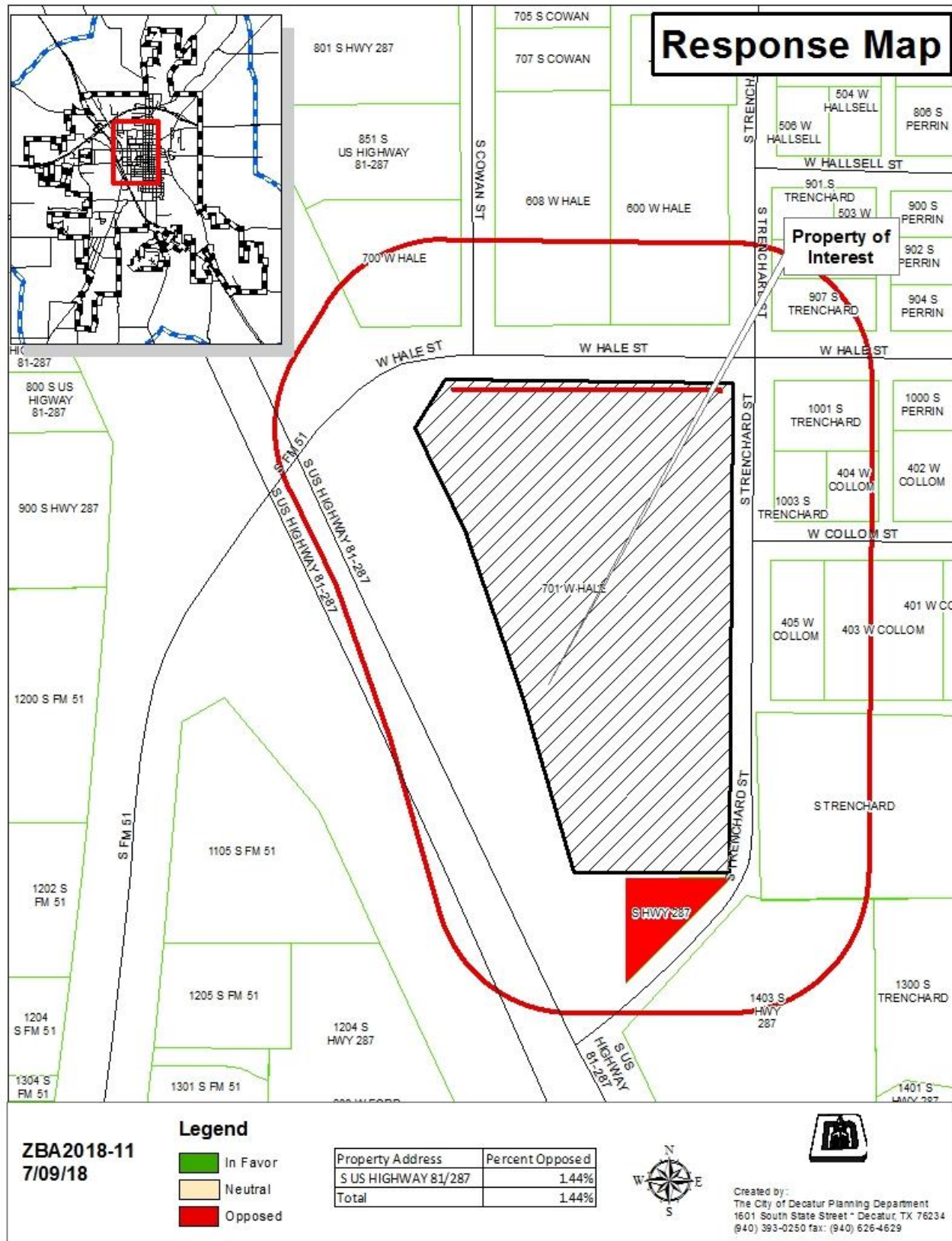


John Pimentel | QuikTrip Corporation | Real Estate Project Manager
O. (817) 786.3192 | C. (214) 797.0371 | F. (817) 858.0213
1120 N. Industrial Blvd. Euless, TX 76039

Attachment 3
Plat Exhibit



200' Notification Map and Property Owner Responses





CITY OF DECATUR, TEXAS

Development Services ★ 1601 S. State Street ★ Decatur, TX 76234 ★ (940) 393-0250 voice ★ (940) 626-4629 fax

Mailed 06/29/18

NOTICE OF PUBLIC HEARING

ZBA2018-11

Variance Request for Front Yard Setback

The (Zoning) Board of Adjustment of the City of Decatur will hold a public hearing on **Monday, July 16, 2018, at 3:30 p.m.** at the City Hall Council Chamber located at 201 E. Walnut. The purpose of the meeting is to consider and take action on Mr. John Pimentel's request, on behalf of QuikTrip Corporation, for a variance from the City of Decatur's Zoning Ordinance regarding front yard setback. Specifically, applicant is requesting a variance to the City of Decatur Code of Ordinances, Appendix B, "Zoning," Article 5, "Zoning Districts," Section 5.1 "Zoning Districts Established," Subsection 5.1.11 "C-2, Thoroughfare Business District," Item D "Area Regulations," (1) "Size of Yard," (a) "Minimum Front Yard," to reduce the required front yard setback twenty-five feet (25') to seven feet (7'), a reduction of eighteen feet (18'), along west Hale Street.

The subject property is platted as Lot 1, Block 1, QT 1853 Addition and is more commonly referred to as 701 W. Hale St., City of Decatur, Wise County, Texas.

By law, the (Zoning) Board of Adjustment must first hold a public hearing to gather input from interested parties and decide whether or not to allow the special exception based on proven hardship as defined in the State Enabling Act.

By law, you have the right to present your views before the (Zoning) Board of Adjustment during their public hearing. At the hearing, you may speak, have someone speak on your behalf or be represented by legal counsel. You may also present your views in writing or present a petition listing the signatures of people who represent your views. Either way, your input must come before or during the public hearing to be considered.

This letter is sent to all City taxpayers shown on the approved City of Decatur 2018 tax roll who own real property within two hundred (200) feet of property requesting a zoning action. This is your legal notification that this public hearing is being held and your official invitation to attend the public hearing. Please, in order for your opinion to be taken into account, return this form with your comments prior to the date of the public hearing. *(This in no way prohibits you from attending and participating in the public hearing.)* You may fax form to the number located at the top of this page, mail form to the address below, or drop form off in-person:

Planning Department
1601 S. State Street
Decatur, Texas 76234

Attn: Dedra D. Ragland, AICP, Planning Director

These forms are used to calculate the percentage of landowners that support and oppose the request. The Board is informed of the percent of responses in support and in opposition.

Please Circle one:

In favor of request

Neutral to request

Opposed to request

Reasons for Opposition:

FROM 25 FT SETBACK TO 7 FT IS TOO DRASTIC
A CHANGE, SUGGEST 15 FT, WILL BE LOTS OF SEMI TRUCK TRAFFIC
MINIMUM

Signature: J M Skelton

Printed Name: J M Skelton

Mailing Address: 500 W. MAIN DECATUR TX 76234

City, State Zip: DECATUR TX 76234

Telephone Number: 940 627-4584

Physical Address of Property within 200 feet: Tax ID: R000026263 Property Address: S US HIGHWAY 81/287

Memo from City Engineer



**City of Decatur
City Engineer**

Memo

To: Cheryl Fuss
Dedra Ragland

Cc: Greg Hall
Katherine Griffith

From: Earl Smith, P.E., CFM, City Engineer

Date: 06/26/2018

Re: ZBA 2018-11; Variance Request, Front Yard Setback for MONUMENT SIGN; Lot 1, Block 1, QT 1853 Addition; 701 W. Hale

Comments on Variance Request:

• 4.3.3 Authority of Board of Adjustment

The Board of Adjustment shall have the authority, subject to the standards established in Chapter 211 of the Texas Local Government Code, as amended, and those established herein, to exercise powers and to perform duties including the following:

- (2) *Variances and Special Exceptions.* Authorize, in specific cases, a Variance or Special Exception (see [4.3.5](#) Appeals to the Board of Adjustment and [4.3.7](#) Special Exceptions) from the terms of this Ordinance if the variance or special exception is not contrary to the public interest and if, due to special conditions, a literal enforcement of the Ordinance would result in unnecessary hardship, and so that the spirit of this Ordinance is observed and substantial justice is done.

4.3.6 Variances

C. Criteria for Granting a Variance.

(2) *Findings of Undue Hardship.*

(a) In order to grant a variance, the Board of Adjustment shall make findings that an undue hardship exists, using the following criteria:

(i) Literal enforcement of the controls will create an unnecessary hardship or practical difficulty in the development of the affected property;

According to applicant, limited visibility of sign for motorist along Hale Ave. requires placing the sign closer to street to provide adequate time for motorists to safely change lanes and enter the site. The structure causes no sight problems for traffic or impedes any views by neighboring properties.

and

(ii) The situation causing the hardship or difficulty is neither self-imposed nor is it a situation generally affecting all or most properties in the same zoning district;

The structure should not cause any sight problems for traffic or impede any views by neighboring properties.

and

(iii) The relief sought will not injure the permitted use of adjacent conforming property;

The structure causes no sight problems for traffic or impedes any views by neighboring properties.

ZBA 2018-11; Variance Request, Front Yard Setback for MONUMENT SIGN; Lot 1, Block 1, QT
1853 Addition; 701 W. Hale; cont'd.

and

(iv) The granting of a variance will be in harmony with the spirit and purpose of these regulations.

Area surrounding property is built out; no future subdivision of properties in area is practical.

Photos



QuikTrip®

4705 S. 129th E. Ave. - Tulsa, OK 74134-7008
P.O. Box 3475 - Tulsa, OK 74101-3475
p:918.615.7700

